

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

RUSSEL DOVER, JONATHAN STONE,
CODY RANK, and SUZETTE PERRY, on
behalf of themselves and all others similarly
situated,

Plaintiffs, -

v.

BRITISH AIRWAYS, PLC (UK),

Defendant.

Case No. 1:12-cv-05567-MKB-MDG

**DECLARATION OF
KEARA M. GORDON IN
SUPPORT OF MOTION TO
DISMISS**

KEARA M. GORDON, an attorney admitted to the practice law in the State of New York, declares pursuant to 28 U.S.C. § 1746 as follows:

1. I am admitted to the Bar of this Court and am a partner at DLA Piper LLP (US), counsel to Defendant British Airways PLC, and am fully familiar with the subject matter of this declaration, which is submitted to provide the Court with certain documents in support of British Airways PLC's motion to dismiss the Complaint pursuant to Federal Rules of Civil Procedure 12(b)(6).

2. Attached are true and correct copies of the following:

Exhibit 1: Plaintiffs' Complaint, *Dover, et al. v. British Airways PLC*, Case No. 1:12-cv-05567 (E.D.N.Y.), filed November 9, 2012.

Exhibit 2: Excerpts from British Airways Annual Report and Accounts for year ended December 31, 2012.

Exhibit 3: Excerpts from British Airways 2004/2005 Annual Report and Accounts.

Exhibit 4: Excerpts from British Airways Investor Day Presentation, 2004/2005.

Exhibit 5: Excerpt from British Airways Investor Day Transcript, dated March 10, 2005.

Exhibit 6: Excerpts from British Airways 2005/2006 Annual Report and Accounts.

Exhibit 7: Excerpts from British Airways Investor Day Presentation, dated March 9, 2006.

Exhibit 8: Excerpts from British Airways 2006/2007 Annual Report and Accounts.

Exhibit 9: Excerpts from British Airways Investor Day Presentation, dated March 7, 2007.

Exhibit 10: Excerpts from British Airways Investor Day Transcript, March 7, 2007.

Exhibit 11: Excerpts from British Airways 2007/2008 Annual Report and Accounts.

Exhibit 12: Excerpts from British Airways Investor Day Presentation, dated March 6, 2008.

Exhibit 13: Excerpts from British Airways 2008/2009 Annual Report and Accounts.

Exhibit 14: Excerpts from British Airways Investor Day Presentation, dated March 5, 2009.

Exhibit 15: Excerpts from British Airways Investor Day Transcript, dated March 5, 2009.

Exhibit 16: Excerpts from British Airways Annual Report and Accounts for year ended December 31, 2011.

Exhibit 17: U.S. Energy Information Administration, U.S. Gulf Coast Kerosene - Type Jet Fuel Spot Price FOB, release date February 13, 2013.

Exhibit 18: Article, Joe Sharkey, *Fuel Surcharges Push Up International Airfares*, New York Times, February 18, 2013.

Exhibit 19: Fuel and air transport, A report for the European Commission prepared by the Air Transport Department, Cranfield University.

Exhibit 20: Article, *Embark on the Ultimate Flight of Fancy as British Airways and Visit Britain Team Up for "The Big British Invite" to Inspire Travel to Britain*, International Business Times, March 22, 2013.

Exhibit 21: Article, *British Airways PLC Bay Fuel Surcharge Increase*, Bloomberg, December 14, 2010.

Exhibit 22: Excerpts from British Airways 2003/2004 Annual Report and Accounts.

Exhibit 23: About the Club, British Airways website (www.ba.com).

Exhibit 24: Contract, British Airways website (www.ba.com).

Exhibit 25: Conditions of Carriage, British Airways website (www.ba.com).

Exhibit 26: About Reward Flights, British Airways website (www.ba.com).

Exhibit 27: Additional Guidance on Airfare/Air Tour Price Advertisements, United States of America Department of Transportation Office of the Secretary, dated February 21, 2012.

Exhibit 28: Airline Tariff Publishing Company, International Passenger Rules and Fares Tariff.

Exhibit 29: English Law Opinion, dated March 19, 2013.

Exhibit 29a: *Attorney General of Belize v. Belize Telecom Ltd* [2009] UKPC 10

Exhibit 29b: *Antaios Compania Naviera S.A. v. Salen Rederierna A.B.* [1985] A.C. 191.

Exhibit 29c: *Bank of Credit & Commerce Int'l SA v. Ali* [2001] UKHL 8

Exhibit 29d: Convention on International Civil Aviation held in Chicago, dated December 7, 1944.

Exhibit 29e: Council Directive 93/13/EEC on unfair terms in consumer contracts, dated April 5, 1993.

Exhibit 29f: *Curtis v. Chemical Cleaning & Dying Co.* [1951] 1K.B. 805.

Exhibit 27g: *Ellse v. Hill-Pickford* [2006] EWHC 3293 (Ch).

Exhibit 29h: *Green v. Premier Glynrhonwy Slate Co., Ltd.* [1928] 1 K.B. 561.

Exhibit 29i: *Investors Compensation Scheme Ltd. v. West Bromwich Society* [1998] 1 W.L.R. 896.

Exhibit 29j: *Lancashire County Council v. Municipal Mutual Ins. Ltd.* [1996] ER 545.

Exhibit 29k: Law Commission, Electronic Commerce, Formal Requirements in Commercial Transactions, dated December 2001.

Exhibit 29l: *L'Estrange v. F. Graucob, Ltd.* [1934] 2 K.B. 394.

Exhibit 29m: *Mannai Inv. Co. Ltd. v. Eagle Star Life Assurance Co. Ltd.* [1997] A.C. 749.

Exhibit 29n: *Overy v. Paypal (Europe) Ltd.* [2013] Bus LR Digest.

Exhibit 29o: UK Parliament Sale of Goods Act 1979.

Exhibit 29p: *Moorcock* [1889] 14 P.D. 64.

Exhibit 29q: *Thornton v. Shoe Lane Parking Ltd.* [1971] 2 Q.B. 163.

Exhibit 29r: UK Parliament Unfair Contract Terms Act 1977.

Exhibit 29s: UK Parliament Unfair Terms in Consumer Contracts Regulations 1999.

Exhibit 30: Excerpt from Hearing Transcript, *Dover, et al. v. British Airways PLC*, Case No. 1:12-cv-05567 (E.D.N.Y.), held March 5, 2013.

Exhibit 31: Source documents for graph.

I declare under the penalty of perjury under the laws of the United States that the foregoing is true and correct.

March 26, 2013
New York, New York


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